

109TH CONGRESS
1ST SESSION

H. R. 1036

To amend title 17, United States Code, to make technical corrections relating to copyright royalty judges.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2005

Mr. SMITH of Texas (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 17, United States Code, to make technical corrections relating to copyright royalty judges.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENTS TO CHAPTER 8 OF TITLE 17,**

4 **UNITED STATES CODE.**

5 Chapter 8 of title 17, United States Code, is amended
6 as follows:

7 (1) Section 801(b)(1) is amended, in the matter
8 preceding subparagraph (A), by striking “119 and
9 1004” and inserting “119, and 1004”.

10 (2) Section 802(f)(1)(A) is amended—

1 (A) in clause (i), by striking “clause (ii) of
2 this subparagraph and subparagraph (B)” and
3 inserting “subparagraph (B) and clause (ii) of
4 this subparagraph”; and

5 (B) in clause (ii)—

6 (i) in the first sentence—

7 (I) by striking “A Copyright
8 Judge or Judges, or by motion to the
9 Copyright Judge or Judges,” and in-
10 sserting “One or more Copyright Roy-
11 alty Judges or, by motion to one or
12 more Copyright Royalty Judges,”; and

13 (II) by striking “(not including”
14 and inserting “(other than”;

15 (ii) in the third sentence, by inserting
16 a comma after “substantive law”; and

17 (iii) in the fourth sentence, by striking
18 “Copyrights” and inserting “Copyrights”.

19 (3) Section 802(f)(1)(D) is amended by insert-
20 ing a comma after “undertakes to consult with”.

21 (4) Section 803(a)(1) is amended—

22 (A) by striking “The Copyright” and in-
23 sserting “The Copyright Royalty Judges shall
24 act in accordance with this title, and to the ex-
25 tent not inconsistent with this title, in accord-

1 ance with subchapter II of chapter 5 of title 5,
2 in carrying out the purposes set forth in section
3 801. The Copyright”; and

4 (B) by inserting after “Congress, the Reg-
5 ister of Copyrights,” the following: “copyright
6 arbitration royalty panels (to the extent those
7 determinations are not inconsistent with a deci-
8 sion of the Librarian of Congress or the Reg-
9 ister of Copyrights),”.

10 (5) Section 803(b) is amended—

11 (A) in paragraph (1)(A)(i)(V)—

12 (i) by striking “in the case of” and in-
13 serting “the publication of notice require-
14 ment shall not apply in the case of”; and

15 (ii) by striking “, such notice may not
16 be published”; and

17 (B) in paragraph (6)(C)(i)—

18 (i) in the first sentence, by inserting
19 “and written rebuttal statements” after
20 “written direct statements”;

21 (ii) in the first sentence, by striking
22 “which may” and inserting “which, in the
23 case of written direct statements, may”;
24 and

1 (iii) by striking “clause (iii)” and in-
2 serting “clause (iv)”.

3 (6) Section 803(c)(2)(B) is amended by striking
4 “concerning rates and terms”.

5 (7) Section 803(c)(7) is amended by striking
6 “of Copyright” and inserting “of the Copyright”.

7 (8) Section 803(d)(2)(C)(i)(I) is amended by
8 striking “statements of account and any report of
9 use” and inserting “applicable statements of account
10 and reports of use”.

11 (9) Section 804(b)(1)(B) is amended—

12 (A) by striking “801(b)(3)(B) or (C)” and
13 inserting “801(b)(2)(B) or (C)”; and

14 (B) in the last sentence, by striking
15 “change is” and inserting “change in”.

16 (10) Section 804(b)(3) is amended—

17 (A) in subparagraph (A), strike “effective
18 date” and insert “date of enactment”; and

19 (B) in subparagraph (C)—

20 (i) in clause (ii), by striking “that is
21 filed” and inserting “is filed”; and

22 (ii) in clause (iii), by striking “such
23 subsections (b)” and inserting “subsections
24 (b)”.

1 **SEC. 2. ADDITIONAL TECHNICAL AMENDMENTS.**

2 (a) DISTRIBUTION OF ROYALTY FEES.—Section
3 111(d) of title 17, United States Code, is amended—

4 (1) in the second sentence of paragraph (2), by
5 striking all that follows “Librarian of Congress” and
6 inserting “upon authorization by the Copyright Roy-
7 alty Judges.”;

8 (2) in paragraph (4)—

9 (A) in subparagraph (B)—

10 (i) by striking the second sentence
11 and inserting the following: “If the Copy-
12 right Royalty Judges determine that no
13 such controversy exists, the Copyright Roy-
14 alty Judges shall authorize the Librarian
15 of Congress to proceed to distribute such
16 fees to the copyright owners entitled to re-
17 ceive them, or to their designated agents,
18 subject to the deduction by the Librarian
19 of reasonable administrative costs under
20 this section.”; and

21 (ii) in the last sentence, by striking
22 “finds” and inserting “find”; and

23 (B) by striking subparagraph (C) and in-
24 serting the following:

25 “(C) During the pendency of any pro-
26 ceeding under this subsection, the Copyright

1 Royalty Judges shall have the discretion to au-
2 thorize the Librarian of Congress to proceed to
3 distribute any amounts that are not in con-
4 troversy.”.

5 (b) SOUND RECORDINGS.—Section 114(f) of title 17,
6 United States Code, is amended—

7 (1) in paragraph (1)(A), in the first sentence,
8 by striking “except where” and all that follows
9 through the end period and inserting “, except in
10 the case of a different transitional period provided
11 under section 6(b)(3) of the Copyright Royalty and
12 Distribution Reform Act of 2004, or such other pe-
13 riod as the parties may agree.”; and

14 (2) in paragraph (2)(A), by striking “except
15 where a different transitional period is provided”
16 and inserting “except in the case of a different tran-
17 sitional period provided”.

18 (c) PHONORECORDS OF NONDRAMATIC MUSICAL
19 WORKS.—Section 115(c)(3) of title 17, United States
20 Code, is amended—

21 (1) in subparagraph (B), by striking “subpara-
22 graphs (B) through (F)” and inserting “this sub-
23 paragraph and subparagraphs (C) through (E)”;
24 and

1 (2) in subparagraph (E), in clauses (i) and
2 (ii)(I), by striking “(C) or (D)” each place it ap-
3 pears and inserting “(C) and (D)”.

4 (d) NONCOMMERCIAL BROADCASTING.—Section 118
5 of title 17, United States Code, is amended—

6 (1) in subsection (b)(3), by striking “copyright
7 owners in works” and inserting “owners of copyright
8 in works”; and

9 (2) in subsection (c), by striking “Copyright
10 Royalty Judges” and all that follows through “Li-
11 brarian of Congress” and inserting “Copyright Roy-
12 alty Judges under subsection (b)(4)”.

13 (e) SATELLITE CARRIERS.—Section 119(b)(4) of title
14 17, United States Code, is amended—

15 (1) in subparagraph (B), by striking the second
16 sentence and inserting the following: “If the Copy-
17 right Royalty Judges determine that no such con-
18 troversy exists, the Copyright Royalty Judges shall
19 authorize the Librarian of Congress to proceed to
20 distribute such fees to the copyright owners entitled
21 to receive them, or to their designated agents, sub-
22 ject to the deduction by the Librarian of reasonable
23 administrative costs under this section.”; and

24 (2) by amending subparagraph (C) to read as
25 follows:

1 “(C) WITHHOLDING OF FEES DURING
 2 CONTROVERSY.—During the pendency of any
 3 proceeding under this subsection, the Copyright
 4 Royalty Judges shall have the discretion to au-
 5 thorize the Librarian of Congress to proceed to
 6 distribute any amounts that are not in con-
 7 troversy.”.

8 (f) DIGITAL AUDIO RECORDING DEVICES.—Section
 9 1007 of title 17, United States Code, is amended—

10 (1) in subsection (b)—

11 (A) in the second sentence, by striking
 12 “Librarian of Congress” and inserting “Copy-
 13 right Royalty Judges”; and

14 (B) in the last sentence, by striking “by
 15 the Librarian”; and

16 (2) in subsection (c), in the last sentence, by
 17 striking “by the Librarian”.

18 (g) EFFECTIVE DATE.—Section 6(b)(1) of the Copy-
 19 right Royalty and Distribution Reform Act of 2004 (Pub-
 20 lic Law 108–419) is amended by striking “commenced be-
 21 fore the date of enactment of this Act” and inserting
 22 “commenced before the effective date provided in sub-
 23 section (a)”.

○